

(4) The availability of another entity with the capacity, capability and technical expertise to satisfy defense acquisition, technology base, or industrial base requirements; and

(5) A description of any alternate means available to satisfy the requirement, e.g., use of substitute products or technology or alternate approaches to accomplish the program objectives.

(D) In accordance with 10 U.S.C. 2536(b)(1)(B), the Secretary of Defense may, in the case of a contract awarded for environmental restoration, remediation, or waste management at a DoD facility, waive the prohibition in paragraph (g)(ii)(A) of this subsection upon—

(1) Determining that—

(i) The waiver will advance the environmental restoration, remediation, or waste management objectives of DoD and will not harm the national security interests of the United States; and

(ii) The entity to which the contract is awarded is controlled by a foreign government with which the Secretary is authorized to exchange Restricted Data under section 144c. of the Atomic Energy Act of 1954 (42 U.S.C. 2164(c)); and

(2) Notifying Congress of the decision to grant the waiver. The contract may be awarded only after the end of the 45-day period beginning on the date the notification is received by the appropriate Congressional committees.

[58 FR 28464, May 13, 1993, as amended at 59 FR 51131, 51132, Oct. 7, 1994; 60 FR 29497, June 5, 1995; 62 FR 34121, June 24, 1997; 63 FR 11851, Mar. 11, 1998; 63 FR 14837, Mar. 27, 1998; 65 FR 39704, June 27, 2000; 67 FR 4208, Jan. 29, 2002; 68 FR 7439, Feb. 14, 2003; 74 FR 2413, Jan. 15, 2009; 75 FR 35685, June 23, 2010; 75 FR 45073, Aug. 2, 2010]

209.104-4 Subcontractor responsibility.

Generally, the Canadian Commercial Corporation's (CCC) proposal of a firm as its subcontractor is sufficient basis for an affirmative determination of responsibility. However, when the CCC determination of responsibility is not consistent with other information available to the contracting officer, the contracting officer shall request from CCC and any other sources whatever additional information is nec-

essary to make the responsibility determination.

209.104-70 Solicitation provisions.

(a) Use the provision at 252.209-7001, Disclosure of Ownership or Control by the Government of a Terrorist Country, in all solicitations expected to result in contracts of \$150,000 or more. Any disclosure that the government of a terrorist country has a significant interest in an offeror or a subsidiary of an offeror shall be forwarded through the head of the agency to the Director of Defense Procurement and Acquisition Policy, ATTN: OUSD(AT&L)DPAP/(CPIC), 3060 Defense Pentagon, Washington, DC 20101-3060.

(b) Use the provision at 252.209-7002, Disclosure of Ownership or Control by a Foreign Government, in all solicitations, including those subject to the procedures in FAR part 13, when access to proscribed information is necessary to perform a DoD contract under a national security program.

[58 FR 28464, May 13, 1993, as amended at 59 FR 51131, Oct. 7, 1994; 62 FR 34122, June 24, 1997; 63 FR 11851, Mar. 11, 1998; 63 FR 14837, Mar. 27, 1998; 65 FR 39704, June 27, 2000; 67 FR 4208, Jan. 29, 2002; 68 FR 7439, Feb. 14, 2003; 72 FR 30278, May 31, 2007; 75 FR 45073, Aug. 2, 2010]

209.105-1 Obtaining information.

(1) For guidance on using the Excluded Parties List System, see PGI 209.105-1.

(2) A satisfactory performance record is a factor in determining contractor responsibility (*see* FAR 9.104-1(c)). One source of information relating to contractor performance is the Past Performance Information Retrieval System (PPIRS), available at <http://www.ppirs.gov>. Information relating to contract terminations for cause and for default is also available through PPIRS (*see* PGI 212.403(c) and PGI 249.470). This termination information is just one consideration in determining contractor responsibility.

[74 FR 2415, Jan. 15, 2009]